



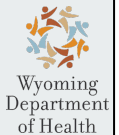
HOME AND
COMMUNITY-
BASED
SERVICES

WYOMING DEPARTMENT OF
DIVISION OF HEALTHCARE FINANCING

Community Choices Waiver

Public Health Emergency Flexibility Rollbacks

Wyoming Department of Health
Division of Healthcare Financing
Home and Community-Based Services Section
April 13, 2023



Good afternoon. My name is Patrice Chesmore, and I am a Benefits and Eligibility Specialist for the Home and Community-Based Services Section of the Division of Healthcare Financing. Thank you for joining us today.

Acronyms and Abbreviations

- Department/Division/HCBS Section
- CCW - Community Choices Waiver
- CMS - Centers for Medicare and Medicaid Services
- PHE - Public health emergency
- COVID or COVID-19 - Coronavirus Disease 2019
- ARPA - American Rescue Plan Act of 2021



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Before we get started, we'd like to go over some of the acronyms and abbreviations we will be using in today's training. The Medicaid system in general, and the home and community-based services program in particular, uses a lot of acronyms. Although most of you know these terms, for a new case manager, it can feel a bit like alphabet soup.

- We will often refer to the HCBS Section or HCBS program. HCBS stands for home and community-based services. We also refer to just HCB, which simply stands for home and community-based. The HCBS Section is organized under the Division of Healthcare Financing, which is a Division of the Wyoming Department of Health. We will sometimes refer to the Division or Department, which means Division of Healthcare Financing, or Department of Health.
- The Community Choices Waiver is most commonly referred to as the CCW or CCW program.
- We will occasionally refer to the Centers for Medicare and Medicaid Services. We will use CMS when referring to this federal agency.
- This training covers the flexibilities that were offered during the Coronavirus Disease 2019 public health emergency. Throughout this training we will refer to COVID or COVID-19, which is the common vernacular used when referring to this coronavirus. PHE will be used to identify public health emergency.
- Finally, as a result of the COVID PHE, President Biden passed the American Rescue Plan Act of 2021 to provide relief funding to states. This Act is commonly referred to as ARPA.



Discuss the HCBS
Section's strategy
for rolling back PHE
flexibilities.



On February 11, 2023, President Biden's administration indicated that the COVID PHE would be ending on May 11, 2023. The HCBS Section wants to ensure that case managers are aware of how we will be rolling back the flexibilities that were offered during the PHE, and how that rollback may affect their current practices.

Training Agenda

- Discuss why flexibilities were extended during the PHE
- Provide recap of flexibilities
- Explain flexibility rollback and what to expect
- Review Medicaid eligibility uncoupling

By the end of this training, we will have discussed why the Division allowed flexibility in state policies and requirements. We will then provide a recap of those flexibilities and explain how the Division will return to a more normal course of doing business over the next few months. Finally, we will provide a quick overview of the Medicaid eligibility maintenance of effort requirements that were uncoupled from the PHE when it was renewed on February 11, 2023.

Choice



Choice is a basic tenet of home and community-based waiver services.



Choice is a basic tenet of home and community-based waiver services. You hear us say it at the beginning of every training, and you can probably recite it in your sleep by now, but we continue to state this because we want it to be in the forefront of everyone's mind, even if what we are discussing isn't directly related to the participants you serve. Participants must have the freedom to choose the services they receive, who provides those services, where they live, with whom they spend time, and what they want for their future. Having choice is paramount to human dignity.

Several of the flexibilities offered during the PHE directly impacted how participant choice was demonstrated. Now that we are returning to a more typical way of doing business, it is important to remember that we always want to ensure that the participants you serve have choice in their lives, and that their choices are documented and verified.



Before we go into the flexibilities offered, we feel it is important to understand *why* the flexibilities were offered. Let's take a step back in time to late 2019. When COVID entered the scene, few of us realized the impact that it would have on our world, our country, our state, or our individual lives. Few of us imagined a world in which we couldn't shake hands, eat at a restaurant, or get a haircut. Few of us believed that the latest fashion accessory would be a face mask. And never did we imagine the fear and uncertainty, the economic hardships, or the isolation and loneliness that people would experience as a result of COVID.

When the national PHE was declared on January 27, 2020, Division personnel started planning for how and when this emergency would affect Wyoming citizens. Although we weren't sure at the time how COVID was going to impact Wyoming, we wanted to ensure that participants, providers, family members, and community members were as safe as they could be given the very difficult circumstances. The point of the flexibilities was to provide...well... flexibility to participants, providers, and case managers so they could, to the best of their ability, continue to receive, provide, or monitor CCW services.

Although much of what we discuss today will be focused on rolling these flexibilities back, it is important to note that outside of this formal declaration about the end of the PHE, day to day work has resumed without these flexibilities being necessary. Even though these flexibilities have remained in place, the Division presumes that most of the original standards outlined in the CCW are being met, simply because the need for the flexibilities no longer exists.

- **May 29, 2020** - Appendix K approved - *Effective 1/27/2020*
- **January 15, 2021** - Date of flexibilities extended
- **October 6 and December 7, 2021** - Rate adjustments approved - *Effective 7/1/2021*
- **March 30, 2022** - Employees as Spouses - *Effective 4/1/2022*
- **November 22, 2022** - Meal Rates increases - *Effective 1/1/2023*



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CMS offers an Appendix K, which is a standalone authority that allows states to extend some flexibility to the standards set forth in HCB waivers during natural disasters and other emergency situations, such as a pandemic. During the course of the PHE, the Division submitted several Appendix Ks in order to address the needs of CCW stakeholders.

On May 29, 2020, the Division received approval on its initial Appendix K submission. This approval was retroactive to January 27, 2020, the date the PHE was declared by the federal government, and was effective for one year. This initial Appendix K allowed for most of the flexibilities under which the CCW program is practicing today.

Of course, the PHE extended well beyond a year. On January 15, 2021, the Division received approval to extend the flexibilities to six months past the date the PHE ended, or upon notification from the Division that the flexibility would be rolled back.

On July 1, 2021, a five-year CCW renewal was implemented. This renewal included new rates and rate methodologies. On October 6th and again on December 7, 2021, the Division received approval to make necessary rate adjustments to address the CCW renewal, and subsequently received approval to increase assisted living facility and case management rates to align with the federal maintenance of effort requirements of ARPA. All rate adjustments in these Appendix Ks were effective on July 1, 2021.

On March 30, 2022, the Division received approval to allow spouses to become participant-directed employees in certain circumstances, and on November 22, 2022, we received approval to temporarily increase the reimbursement rates for hot and frozen meal services.

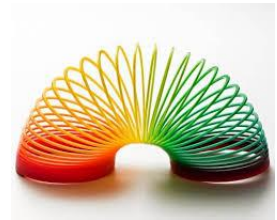
These Appendix Ks were effective on April 1, 2022 and January 1, 2023, respectively.



The flexibilities offered to participants, providers, and case managers during the COVID PHE can be found on the COVID page of the HCBS Section website. Let's recap these flexibilities now.

Flexibilities - Service Plan

- Case manager planning and monitoring activities by phone or video conferencing
- Forms accepted without required signatures
- Required services not mandatory if there is service disruption
- Extension of LT101 assessments
- Home delivered meal increases



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Flexibilities addressed several topics related to the development and monitoring of service plans.

Case managers were provided flexibility to conduct service planning and monitoring activities by telephone or video conference as an alternative to in-person case management visits. Additionally, the Division accepted CCW forms and program materials without the required signature of the participant or legal representative, as long as the case manager documented that the activity was conducted remotely.

If a participant refused waiver services as a social distancing measure, or if their services are limited by disruptions in the provider network, their enrollment in the CCW was not terminated, even though the CCW establishes a minimum number of services that the participant must receive each month.

If needed, the Division could allow service plans to be renewed even if the annual level of care evaluation or service planning activities couldn't be conducted as a result of COVID-19 mitigation strategies, such as assisted living facility quarantines. Additionally, several flexibilities related to how the LT101 assessment could be conducted were offered to public health nurses.

The two meal a day limit on home-delivered meals was temporarily increased to three meals per day in order to help participants who were at increased risk for severe illness to avoid public gatherings and follow social distancing measures.

Flexibilities - Service Providers

- Qualifications
 - ◆ Background screenings
 - ◆ Participant-directed caregiver training
- Expedited provider enrollment
- Personal Support Services
 - ◆ Agency providers
 - ◆ Spousal employees



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Flexibilities addressed several topics related to providers of CCW services. Throughout the PHE, providers were required to notify the Division and the participant's case manager if disruptions in the workforce limited the provider's ability to deliver critical CCW services. Providers were also encouraged to contact the Division to request modifications to provider qualifications as necessary to ensure participant health and welfare. Providers were required to deliver services within their respective scope of practice, and consult with the Aging Division's Healthcare Licensure and Survey unit, the Wyoming State Board of Nursing, or other applicable regulatory agency for information on any potential modifications to those requirements.

During the PHE, the Division allowed provider agencies and employers of record (EOR) under the participant-directed service delivery option to permit employees to deliver services prior to receiving the criminal history investigation results, as long as that employee signed an attestation affirming that they had not been convicted of, pleaded "no contest" to, or had a pending or deferred prosecution of any of the barrier crimes. Additionally, the employee could provide services prior to the results of a Department of Family Services (DFS) Central Registry screening if the employee attested that they were not under investigation or had not been substantiated by DFS for committing abuse or neglect. It is important to note that, if the employee failed either of these screenings, they could no longer provide or be paid to provide CCW services.

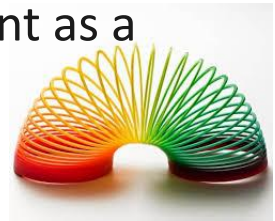
If permitted by the EOR, participant-directed employees could begin delivering services prior to completing or renewing CPR, First Aid, and other caregiver training required by the Division.

The Division expedited temporary provider enrollments, as needed, to ensure participants had access to critical CCW services.

During the PHE, personal support service employees could perform light housekeeping, meal preparation, and grocery and personal shopping that fell outside of those services that were incidental to and delivered in conjunction with an activity of daily living. In order to address possible staffing shortages, the Division allowed home health agencies and senior centers to provide personal support services. In April 2022, the Division made an allowance for participants to hire their spouse to provide personal support services under the participant-directed service delivery option as long as the spouse was not the participant's legal guardian and was not authorized to make financial decisions on behalf of the participant.

Flexibilities - Reimbursement Rates

- Assisted Living Facilities
- Home Health Aide
- Skilled Nursing Services
- Participant Directed Support Worker Wages
- Added Personal Protective Equipment as a service
- Home Delivered Meals



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Toward the beginning of the PHE, the Division retroactively increased the maximum allowable reimbursement rates for assisted living facility, home health aide, and skilled nursing services in order to account for the increased costs to providers for hazard and retention pay, higher staffing levels, and personal protective equipment and other supplies. When the CCW renewal was implemented on July 1, 2021, these increases were effectively maintained or exceeded. An increase to the maximum allowable wage for participant-directed employees was also implemented.

Additional coverage for Personal Protective Equipment (PPE) was also added to the CCW. Participants and EORs were able to obtain PPE for their employees.

Due to significant increases in provider costs, the Division used an Appendix K to temporarily increase the reimbursement rate for home-delivered meals, effective January 1, 2023. This increase is scheduled to remain in effect through June 30, 2023 under the Appendix K authority.



Now that we've reviewed the flexibilities offered to participants, providers, and case managers during the COVID PHE, let's talk about how we intend to roll these flexibilities back and return to a more normal course of doing business. As a reminder, the updated CCW COVID Flexibilities document is available on the [CCW Providers and Case Managers](#) page of the HCBS Section website, under the *COVID-19 Flexibilities* button.

Rollback of Service Plan Flexibilities

- Encourage in person planning and monitoring
 - Quarterly face-to-face monitoring required
- Signatures are required
- Meal services cannot exceed 2 meals per day
- Case management required every month
- Level of care assessments and annual service plan renewals are already back to normal

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Case managers were originally provided flexibility to conduct service planning and monitoring activities by telephone or video conference as an alternative to in-person case management visits. However, the CCW amendment that became effective on April 1, 2023 states *“Service plan monitoring visits are typically conducted face-to-face in the participant's home but may occur by phone/video call or at another location within the community in accordance with the participant's needs and preferences. Face-to-face service plan monitoring visits must be conducted at least quarterly. Case managers must conduct service plan monitoring visits at a time and place convenient to the participant.”*

Case management activities are designed to be in-person, direct services. A primary responsibility of case managers is the ongoing monitoring of a participant's health and welfare, and this is best done through in-person observation. When the case manager is in the participant's physical proximity, they can connect more effectively, observe body language and appearance, and more easily recognize concerns related to the environment. The health and safety of the participant is of utmost importance, but there are other mechanisms, such as masks or social distancing, that can be used as an alternative to the isolation that comes with conducting business virtually. Most people have returned to shopping, dining out, and attending public events and social gatherings, and have found various ways to participate in these activities while still focusing on health and safety.

As we mentioned at the beginning of this training, several of the flexibilities offered during the PHE directly impacted how participant choice was demonstrated. Now that we are returning to a more typical way of doing business, it is important to remember that we always want to ensure that participants have choice in their lives, and that their choices are

documented and verified. Case managers should encourage the participants they serve to meet with them in person for service plan development activities. However, if a participant chooses to meet by phone or video, it is the participant's call. The point we want to drive home here is that participants have the choice to decide how they want their service planning and monitoring to occur. Case managers do not get to make that decision, nor should they try to sway the participant to make a decision that is more convenient for the case manager. If the participant does choose to meet virtually, this decision must be documented in the participant's service plan.

Beginning June 1, 2023, case managers must submit forms and documents needed for service plan renewals, modifications, and monitoring with required signatures. As of December 1, 2023 the Division will not accept any document that requires a signature without that signature. This flexibility was extended to keep everyone safe during the height of the PHE, so case managers should, for the most part, already be collecting necessary signatures.

The two meal a day limit on home-delivered meals will be reinstituted beginning December 1, 2023. If case managers work with participants who are currently receiving three meals a day through hot or frozen meals services, they must work with the participant to ensure they have a system in place to get the additional meal through another avenue, and modify the participant's service plan to decrease the number of meals to no more than two per day by December 1st. The Division will send letters to participants, notifying them of this change, in mid to late May.

Also, if a participant is receiving personal support services through a senior center, the case manager must work with the participant to identify other providers for this service by December 1, 2023. The Division will send letters to participants, notifying them of this change, in mid to late May. Please note that, with the CCW renewal, home health agencies have been identified as an ongoing provider option for personal support services.

During the PHE the Division was unable to terminate a participant who did not receive case management services during the month. However, when the federal government uncoupled eligibility maintenance of effort requirements from the existing PHE, this requirement went back into effect. As of April 1, 2023, participants must be receiving case management services on a monthly basis in order to remain on the CCW. This service demonstrates the participant's ongoing need for nursing facility level of care, which is required for all CCW participants.

The Division has already returned to the normal expectations surrounding level of care assessments. Level of care assessments have been conducted in accordance with Division standards for the past several months.

Rollback of Provider Flexibilities

- Background screening results must be on file by May 1, 2023
- Division sponsored training requirements for participant-directed employees
- Provider applications will be processed as quickly as possible
- Services must meet definitions

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Flexibilities related to fingerprinted background screenings were offered to address the temporary halt of these screenings by the Division of Criminal Investigation. With the CCW amendment that went into effect on April 1, 2023, the requirement for fingerprinted background screenings has changed. Instead of a FBI/DCI fingerprint screening, providers must obtain a successful national name and social security number based criminal background screening on all employees, contractors, and volunteers who may have unsupervised direct contact with waiver participants in the regular course of their work. The impact of this change is that providers are not required to submit the fingerprint background checks and wait for their return. Instead, the provider is able to utilize any name and social security number background screening, and retain the results in staff files. The national name and social security number background screening will indicate convictions of prohibited barrier crimes. The DFS Central Registry Screening, Office of Inspector General Exclusions Database search, and National Sex Offender Public Website search are still required elements of the background screening.

Providers have until May 1, 2023 to obtain these results for each identified individual who has not undergone a background screening, and must retain the results in their records. Additionally, these results must be obtained for all identified individuals at least every five years. The HCBS Section may request this documentation during certification renewal, review of incidents and complaints, and during the course of other work.

ACES\$, the Financial Management Service contractor for participant-directed services, is updating their systems and will work directly with employers of record to ensure that participant-directed employees meet background screening requirements.

Provider agencies may still choose to permit individuals to begin delivering waiver services pending the results of the criminal history and background investigation if that individual has signed an attestation affirming that they have not been convicted of, pled "no contest" to, or have a pending deferred prosecution of any barrier crime. ACES\$ will be adding this flexibility for EORs later this year.

With the CCW renewal that went into effect on July 1, 2021, and the subsequent CCW amendment that went into effect on April 1, 2023, participant-directed employees are no longer required to be certified in CPR or First Aid. In accordance with these agreements with CMS, an employee must be at least 18 years of age and successfully complete the Division-sponsored training curriculum. This curriculum includes a self-paced training on infection control, health, and safety, and has been required since July 1, 2021.

The Division is no longer expediting temporary provider enrollments; however, the Division will always work with new provider applicants to get their certification in place as quickly as possible.

With the waiver amendment that went into effect on April 1, 2023, the Division revised service definitions and subsequent case management processes to address chore-type tasks, especially when a participant has homemaker services on their service plan. Providers are required to meet the service definitions that are established in the CCW Service Index, which can be found on the [Service Definitions and Rates](#) page of the HCBS Section website.

Effective November 7, 2023, a participant will no longer be able to hire their spouse through the participant-directed service delivery option. The Division will send letters to participants, notifying them of this change, in mid to late May.

Provider Reimbursement Rates

- Assisted Living Facility and Case Management Monitoring rates in effect through March 31, 2025
- Ongoing increases for meal rates have been approved by the legislature



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In April 2020, the Division embarked on a project to study and rebase CCW provider reimbursement rates. The Division contracted with Guidehouse Consulting to gather cost and wage data from national and state sources, vendors of services, and directly from CCW providers in order to develop provider reimbursement rates for each of the waiver services included in the rate study. The study resulted in a report that provides a detailed account of the rate study process, including stakeholder input, the rate build-up methodology, and calculations of specific rate components. The Division also took this opportunity to review the payment tiers and units of many of the services, and made adjustments to more closely align billing units with participant needs and provider practices. As a result, assisted living facility tiers and case management billing tiers and rates were significantly adjusted.

On March 11, 2021, President Biden signed ARPA into law. Section 9817 of ARPA includes a provision to increase the Federal Medical Assistance Percentage (FMAP) for Medicaid HCBS by 10% from April 1, 2021 through March 31, 2022. In guidance issued by CMS on May 13, 2021, states were advised that, in order to be eligible to receive the enhanced ARPA funding, they had to meet certain maintenance of effort (MOE) requirements. A provision was included in the MOE requirements that required states to maintain HCBS provider payments at a rate no less than those that were in place as of April 1, 2021.

Since the CCW renewal had already been submitted to CMS for approval, the Division requested clarification on how the MOE requirements would be applied when rates had been submitted for approval prior to the enactment of ARPA. Initially, the Division received guidance that the rate changes proposed in the CCW renewal under review would not violate MOE requirements established in ARPA, and the Division ultimately implemented the

proposed rates effective July 1, 2021.

In October 2021, CMS determined that the provider reimbursement rates for assisted living facilities and case management services were, in fact, an MOE violation under ARPA. In order to mitigate this violation and remain eligible to receive the enhanced federal funding, the Division brought these two service rates, on average, back to the funding level that was in place as of April 1, 2021. The Division submitted additional Appendix K applications to CMS to increase the funding levels for these services. Unless additional funding is appropriated by the Wyoming Legislature, these specific rates will remain in effect for the duration of the MOE period, which will end March 2025 or when the state has expended the enhanced revenue attributable to the ARPA funding.

The CCW Provider Rate Study report is available on the [Public Notices, Regulatory Documents, and Reports](#) page of the Division website.

During the 2023 General Session, the Wyoming Legislature appropriated ongoing funding to sustain the increase to home delivered meal rates. The Division has submitted a technical CCW amendment to CMS in order to get these rates extended beyond June 30th.



At the start of the PHE, Congress enacted the Families First Coronavirus Response Act, which included a requirement that Medicaid programs keep people continuously enrolled through the end of the COVID PHE, in exchange for enhanced federal funding. As part of an end-of-the-year spending bill signed into law on December 29, 2022, Congress uncoupled that requirement, which means it removed the requirement for continuous enrollment from the PHE effective March 31, 2023.

Medicaid Disenrollments

- Effective April 1, 2023
- Outstanding cases should have been closed in March 2023
- Participants who are disenrolled have a right to reconsideration and a fair hearing



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Effective April 1, 2023, Wyoming Medicaid began closing the cases of participants who were determined ineligible but were protected as part of the PHE maintenance of effort requirements. Service plan renewals that are in effect as of April 1st and beyond will be closed if the participant does not meet all residency, financial, and level of care eligibility requirements. Participants may be required to submit a new Medicaid financial application to determine if they are financially eligible to participate in Medicaid. If a participant is determined ineligible, they have the right to request a reconsideration or fair hearing, as outlined in Chapter 4 of Wyoming Medicaid Rules.

If you have lingering cases that remained open during the PHE, you will need to initiate the closure in EMWS immediately.



Key Takeaways



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1. Signatures are required.
2. Participant have choice in how their service planning and monitoring occurs.
3. Case managers must review and modify service plans, as necessary.
4. Background screening requirements apply.
5. Annual financial eligibility determination is required.

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As we end this training, we'd like to review some of the key items that case managers need to remember:

1. Beginning June 1, 2023, case managers must submit forms and documents needed for service plan renewals, modifications, and monitoring, with required signatures.
2. Case managers should encourage participants to meet with them in person for service plan development activities, but if the participant chooses to meet by phone or video, it is the participant's call. Case managers do not get to make that decision, nor should they try to sway the participant to make a decision that is more convenient for the case manager. Remember, if the participant chooses to meet virtually, this decision must be documented in the participant's service plan.
3. There are several flexibilities that, once eliminated, will affect participant services. By December 1, 2023, case managers must work with participants who are currently receiving services associated with these flexibilities, namely home-delivered meals and personal support that is provided through a senior center, to ensure they have a system in place to address the changes that will result from the elimination of these flexibilities. Case managers must modify the participant's service plan accordingly.
4. Effective May 1, 2023, agency providers must ensure they have the results of required background screenings for every employee, contractor, and volunteer who may have unsupervised direct contact with waiver participants in the regular course of their work. The results must be no more than five years old, must demonstrate that the provider staff member has successfully passed the screenings, and must be retained in the provider's files and made available to the HCBS Section upon request.
5. Finally, Wyoming Medicaid relaunched financial eligibility renewals in March 2023.

1. Financial eligibility must be determined annually. All eligibility requirements, as established in the CCW agreement, are being applied.



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Questions???

Contact your Benefits and Eligibility or Provider Support Specialist

<https://health.wyo.gov/healthcarefin/hcbs/contacts-and-important-links/>

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Thank you for participating in today's training on Wyoming's rollback of PHE flexibilities. If you have questions related to the information in this training, please contact your area Benefits and Eligibility Specialist or Provider Support Specialist. Contact information can be found by visiting the web address provided in the slide.